



NDH 51630
✓SDR 922-90-08
3165 (922.1)

June 11,

CERTIFIED---RETURN RECEIPT REQUESTED

DECISION

Mr. Craig Ambler)
Samuel Gary Jr. & Associates, Inc.)
1775 Sherman Street, Suite 1925)
Denver, Colorado 80203)

SDR No. 922-90-08

DISMISSED

Samuel Gary Jr. & Associates, Inc. (Samuel Gary) requested a State Director Review (SDR) of a decision of the Dickinson District Office (DDO), North Dakota, dated May 29, 1990, stating that the lease will terminate unless the lease is capable of producing hydrocarbons in paying quantities (Enclosure 1).

The request for this SDR was dated June 6, 1990, and was timely received on June 8, 1990 (Enclosure 2).

Lease NDH 51630, is located in secs. 11, 13, 15, and 23, T. 147 N., R. 98 W., McKenzie County, North Dakota, and comprises 2,400 acres. The lease was issued effective November 1, 1975, to Getty Oil Company. Getty Oil Company assigned the lease to Texaco Production Inc., effective September 1, 1985. Texaco Production Inc. assigned the lease to Loren R. Kopseng effective February 1, 1989. Loren R. Kopseng assigned the lease to Bob Dennis effective February 1, 1989. Bob Dennis assigned the lease to Samuel Gary Jr. and Associates, effective October 1, 1989. Samuel Gary is currently the lessee of record and also the current operator of the said lease.

On May 29, 1990, the DDO notified Samuel Gary, pursuant to 43 CFR 3107.2-2, stating that the lease was not capable of production in paying quantities. In this letter, the DDO allowed Samuel Gary 60 days upon receipt of the letter to rework the well, drill a new well on the leasehold or submit justification that the lease is capable of production in paying quantities. The DDO also advised Samuel Gary that they may request an SDR of its decision.

The May 29, 1990, letter allowed the operator to submit justification if they have reason to believe that the lease is capable of production in paying quantities. The DDO decision would not be final until the 60-day period had elapsed. Samuel Gary indicated in the SDR that they would submit justification to the DDO to prove that the well is capable of production. However, because of the 20-day appeal period stated in the DDO decision, Samuel Gary had no choice but to file this SDR request prior to presenting the justification to the DDO. We believe that the appeal language in the May 29, 1990, letter should not have been included, and is not appropriate. We are, therefore, dismissing this SDR.

Within 60 days upon receipt of this letter, Samuel Gary may rework the well, drill a new well on the leasehold or submit justification to the DDO that the lease is capable of production in paying quantities. The DDO will review the justification submitted by Samuel Gary and make the determination whether the well is capable of production in paying quantities. The DDO will notify Samuel Gary of their determination. If the determination is negative, the DDO will provide Samuel Gary with the reasoning for its decision and advise Samuel Gary of the appeal rights.

Also, since the SDR is dismissed, the other issues stated in your SDR, will not be addressed in this decision and considered moot.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the enclosed Form 1842-1 (Enclosure 3). If an appeal is taken, a Notice of Appeal must be filed in this office at the above address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

Sincerely,

Donald L. Gilchrist
Acting Deputy State Director
Division of Mineral Resources

3 Enclosures

- 1-DDO letter dated May 29, 1990 (2 pp)
- 2-SDR Request dated June 6, 1990 (2 pp)
- 3-Form 1842-1 (1 p)

cc: (w/encls)
DH, Dickinson